

In the United States Patent and Trademark Office

In re the Application of:

Joshua A. Norrid)

Serial Number: 09/963,716)

Group: 3691

Docket Number: AUS920010667US1)

Examiner: Stefanos Karmis

Filed on: 09/26/2001)

For: "Online Registration and Block)

Tracking for Travel Wholesalers,)

Agencies and Hotels")

APPEAL BRIEF

Real Party in Interest per 37 CFR §41.37(c)(1)(i)

The subject patent application is owned by International Business Machines Corporation of Armonk, NY.

Related Appeals and Interferences per 37 CFR §41.37(c)(1)(ii)

None.

Status of Claims per 37 CFR §41.37(c)(1)(iii)

The final rejections of Claims 1 - 5, 19 and 20 are appealed. Claims 6 - 18 are cancelled.

Status of Amendments after Final Rejections per 37 CFR §41.37(c)(1)(iv)

No amendments to the claims have been submitted or entered after final rejections.

Summary of the Claimed Subject Matter per 37 CFR §41.37(c)(1)(v)

The present invention allows third-party travel arrangement professionals to book and reserve hotel rooms, rental cars, golf tee times, etc., directly into a proprietary or private reservation system while avoiding the necessity to allow the third-party to have access to and compatible equipment with the proprietary or private reservation system. Previous to the invention, such reservations would be made by faxing or emailing a reservation request to a clerk at the target facility, where the clerk would enter the reservation into the private reservation system. The clerk would also determine a commission due to the third-party. This old process was error prone, costly in administration, and uncompetitive in that the third-party professional was not able to confirm reservations without assistance from on-site personnel.

To address this issue, the invention is a reservation system intermediary system which eliminates inventory control issues then-present in revenue-sharing systems. "Inventory" refers to available rooms, seats, vehicles, tee times, etc. The claims specify keeping a synchronized clone of an inventory database, sending a particular booking party (e.g. travel agent, travel administrator for large organization, etc.) to a particular inventory clone, making the reservation in the clone inventory, recording a revenue split with the booking party (e.g. the travel agent or travel administrator), and adding the split to a pool of revenue for the booking party. The contents of the clone are periodically synchronized with the private (main) inventory database, thereby making the reservation without allowing the third part to have access to the actual inventory database, while allowing the reservation to be booked without any special equipment, terminals, etc.

Independent Claim 1 is directed towards an automated method according to the invention for establishing a reservation for a service or product by:

providing a primary reservation management system web server (*para. 0027*) interfaced through a direct pathway (*para. 0044*) to a hotel Property Management System (*para. 0046*) via terminal emulation (*para. 0050*), said direct pathway excluding a Global Distribution System or a Central Reservation System (*para. 0044*);

providing three or more clone reservation sites (*para. 0058 - 0059*) to said primary reservation management system web server, each clone reservation site having a user interface tailored for use by a booking party type selected from a group consisting at least of a

wholesale booking party, an agent booking party, and a direct customer party (*paras. 0036, 0058 - 0059*);

periodically synchronizing (*para. 0043*) clone inventory databases (*Fig. 2 #23, paras. 0022, 0045 - 47*) of said clone reservation sites with an inventory database of said primary reservation management system web server (*Fig. 2 #16, paras. 0029, 0036, 0039, "Property Management System"*);

responsive to a booking party attempting to book a reservation on said primary reservation management system web server (*para. 0041 et seq.*), redirecting said booking party (*Fig. 2 #12, 102, 14, 11; paras. 0022, 0030, 0036, 0047, 0049 - 0051 "content router"*) to one of said clone reservation sites according to a type of booking party associated with the attempting booking party (*paras. 0030, 0045 - 0048; Fig. 2 #23*);

via said customer-type tailored user interface on said clone reservation system (*paras. 0036, 0058 - 0059*), collecting from said booking party a reservation data set including itinerary and preferences for a customer (*para. 0035 ". . . collects a standardized, uniform set of information", para. 0059; Fig. 3 #37*);

establishing a reservation in said hotel Property Management System according to said reservation data set if a matching service or product is available according to a hotel Property Management System inventory database, said reservation being associated with a customer profile (*para. 0061; Fig. 3 #301 and #302*);

determining a revenue value or a discount value to be compensated to said booking party according to said customer-type (*para. 0062; Fig. 3 #303*); and

recording said revenue or discount in a revenue pool for said booking party (*para. 0062; Fig. 3 #303*).

Grounds for Rejection For Which Review is Sought per 37 CFR §41.37(c)(1)(vi)

Appellant respectfully requests review by the Board of the rejections:

- (a) of Claims 1- 5 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,477,503 ("Mankes") in view of U.S. Patent 6,873,957 ("Chen) in further view of U.S. Patent Application Publication 2001/0016825 ("Pugliese") in still further view of U.S. Patent Application Publication No. 2001/0049613 ("Gramann"); and
- (b) of Claims 19 and 20 over Mankes in view of Chen, Pugliese, and Gramann and in still further view of U.S. Patent 7,167,904 ("Davarajan").

Arguments per 37 CFR §41.37(c)(1)(vii)**Rejections of Claims 1 - 5**

With respect to the rejections of Claims 1- 5 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,477,503 ("Mankes") in view of U.S. Patent 6,873,957 ("Chen) in further view of U.S. Patent Application Publication 2001/0016825 ("Pugliese") in still further view of U.S. Patent Application Publication No. 2001/0049613 ("Gramann"), we respectfully submit that the Examiner has not shown where all of our claim steps, elements and limitations are taught.

The Gramann reference is relied upon for the first time in the final rejections, so Appellant has not previously argued against this combination. However, rather than focus on differences in interpretations of the references, Appellant reserves the right to make these arguments at a time in which all claim elements, steps, and limitations have been identified by the Examiner in one or more of the references. Therefore, Appellant's silence regarding interpretations of any of the references should not be viewed as agreement or stipulation to the interpretations.

Independent Claim 1 recites two steps, neither of which are specifically addressed in the final rejections:

...

via said customer-type tailored user interface on said clone reservation system, collecting from said booking party a reservation data set including itinerary and preferences for a customer;

establishing a reservation in said hotel Property Management System according to said reservation data set if a matching service or product is available according to a hotel Property Management System inventory database, said reservation being associated with a customer profile;

...

While we would agree that the references which are taken from the reservation management arts establish or create some sort of reservation in a reservation system, we specifically point out our claimed feature of *collecting from the customer* a "reservation data set". Our "reservation data set" includes a customer itinerary and customer stay preferences, as discussed in our paragraphs of our published patent application (our emphasis added):

[0078] Once a profile has been created (or updated), the booking party is provided a form such as a Hyper Text Markup Language (HTML) form or Java applet dialog box which allows the booking party to enter information regarding the **guest's itinerary** and **specific preferences**. For example, the form may collect 37 the arrival date, departure date, and room options (view, location, smoking/non-smoking, bed configurations, handicap access, etc.). If all entered information passes a validity check, **an availability query 38 is made** to the hotel's PMS.

[0079] If the PMS system indicates the requested accommodations are not available 39, then the booking party may be offered a chance to modify the itinerary and/or amenity preferences 37.

[0080] If the PMS system indicates that the desired accommodations are available 39, the booking party is offered the option to confirm 300 the reservation. If the booking party elects to confirm the reservation, the reservation is created 301 by executing a transaction with the Hotel PMS 16, obtaining a confirmation number from the PMS 16, and associating 302 the reservation with the guest profile in the hotel's PMS. Otherwise, the booking party is provided an opportunity to update or modify the itinerary and stay preferences 37.

Please note that our itinerary is provided *from the customer* to the reservation clone, not vice versa (e.g. not from the reservation system to the customer). Thus, our system creates the availability query *after* the customer has created a profile with an itinerary and a set of stay preferences.

The rationale for the Final Rejections does not specifically address these two steps of our claims, being especially silent regarding the receipt of an itinerary or stay preferences in a profile from a customer. We believe this is an error in examination, making rejections final over a newly-cited combination without first establishing a *prima facie* case of obviousness under 35 U.S.C. §103(a) by showing where each and every step, element and limitations of the claims is supposedly found in the references.

Mankes is completely silent regarding a customer itinerary as we have claimed, but instead takes the reverse approach of showing the customer the available inventory of rooms and letting him or her select rooms and dates from the available list (see Fig. 2, steps 120 - 130 in which the consumer is given lists of available inventory instead of user supplying an inventors and having the system query the inventory for matching assets as we have claimed).

Chen is also completely silent regarding receiving an itinerary from the user or consumer and then automatically querying the hotel inventory for matching available assets. In fact, Chen only briefly mentions reservation making of any sort (see mention of airline reservations in the last paragraph of col. 5). Chen's invention is directed towards replication of web sites (e.g. their SuperSites and SubSites), so there is no disclosure of a novel method such as we claim wherein the itinerary is collected from the customer and then an availability query is formed.

Pugliese does disclose an itinerary, but not collecting one from the user/customer as we have claimed, but instead producing an itinerary and supplying it to the customer (¶¶0012, 0025, 0041, 0082). This is also a reverse direction of information flow which is material to the patentability of the actual steps of our claims, wherein Pugliese does not disclose collecting a reservation data set including an itinerary from a user or customer in order to subsequently form a query to a PMS database for matching available assets, and then to subsequently establish or book a reservation according to that itinerary. Instead, Pugliese's system produces an itinerary *after* the reservations have been completed and booked. In fact, all of Pugliese's logical process figures (Figs. 1a, 1b, and 4a - 4f) start from a point at which a reservation has already been booked, and thus they depend on the pre-existence of a booked reservation in the system for their proper operation.

Finally, Gramann is silent regarding an itinerary of any sort, but does include "customer table" which can include a smoking preference (¶0032, 0046).

In summary, we respectfully submit that the newly-proposed combination of Mankes, Chen, Pugliese, and Gramann in the final rejections fails to teach all of our claimed steps, elements, and limitations. We respectfully submit that an examination error has occurred by failing to show where all of our steps and limitations are found or suggested in the cited references, and thus, a *prima facie* case of obviousness has not been established.

Further, we respectfully submit that it would not have been obvious to modify this combination still further in order to adopt our claimed itinerary-based searching, matching, and reservation booking method because it would change the fundamental operation of one or more of the references, especially those which presume or rely upon a pre-existing reservation for their proper and desired operations. There can be no obviousness when a proposed change or combination would render one or more of the references undesirable for its intended purpose.

We respectfully request reversal of the rejections of claims 1- 5 .

Rejections of Claims 19 and 20

With respect to the rejections of Claims 19 and 20, an additional reference, Devarajan, was applied to the combination of Mankes, Chen, Pugliese, and Gramann in order to anticipate our claimed steps, elements and limitations regarding redirection from a primary domain to a clone subdomain.

We respectfully submit that, because Claims 19 and 20 depend on Claim 1, the same error in examination has occurred as described in the foregoing paragraphs, namely, failing to establish a *prima facie* case of obviousness by failing to show where each and every element, step, and limitation in our claims is found or suggesting in the cited references.

More particularly with respect to the teachings of the additional Devarajan references, we respectfully point out that it, too, is silent regarding receiving an itinerary from a customer prior to creating a query to a PMS and prior to booking a reservation. Devarajan is not taken from the arts of booking hotel or airline reservations, and thus is largely silent regarding most operations for such functions.

We also respectfully point out that in Claim 20, we have specifically claimed "redirecting from a primary domain to a clone *subdomain*". Claim 19 refers to redirection to another *web address*. It is well known in the art that separate web addresses is not the same as a subdomain of a domain. And, through the doctrine of claim differentiation, it also stands to reason that "redirecting from a primary domain to a *web address*" as set forth in Claim 19 is not the same thing as "redirecting from a primary domain to a clone *subdomain*".

In the rationale for the final rejections of Claims 19 and 20 over the newly-cited combination of Mankes, Chen, Pugliese, Gramann and Devarajan, we believe that the following statement is incorrect: "Devarajan teaches redirecting based on domain and subdomain as well as web address (column 3, lines 10 thru column 4, line 40)." These lines of Devarajan's disclosure refer repeatedly to domain names, but the terms "web address" and "subdomain" do not occur anywhere in these passages, only a references to "e-mail address", which is, of course, neither a web address nor a subdomain.

We are unable to locate *any* recitations of a subdomain in Devarajan. For example, one extrinsic definition from the popular web hosting company GoDaddy defines a subdomain as follows:

"A subdomain is an easy way to create a memorable Web address for unique content areas of your site. For example, you could create a subdomain for pictures on your site called "pics" that is accessible through the URL pics.example.com in addition to www.example.com/pics." (Retrieved on 11/23/2009 from <http://help.godaddy.com/article/296>)

Please note that there are actually two good examples of a subdomain here. The first example is, well, the actually provided example, in which www.example.com is the domain, and adding "pics" in front of the domain creates a subdomain pics.example.com.

The second good example is the site from which we retrieved this definition, namely the "help" subdomain of the "godaddy.com" domain (help.godaddy.com).

The Internet handles subdomains differently than domains. For example, to create a new

domain, a registration process must be completed in order to propagate the new domain name to various Domain Name Servers throughout the Internet. But, to create a new *subdomain*, a web site designer merely organizes his files appropriately on the server which is hosting his files.

For these reasons, and because the examiner has not offered any contradictory or supporting evidence showing that web addresses and subdomains are the same thing, we respectfully submit that an additional error in examination has occurred for failing to show where our claimed element or step regarding redirection to a subdomain in Claim 20 is found in the cited references. Thus, a *prima facie* case of obviousness has not been properly established under 35 U.S.C. §103(a).

For these additional reasons, we respectfully request the reversal of the rejections of Claims 19 and 20.

Respectfully Submitted,

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Claims Appendix
per 37 CFR §41.37(c)(1)(viii)

Clean Form of Amended Claims

1. (previously presented) A method for establishing a reservation directly into a hotel Property Management System comprising:

providing a primary reservation management system web server interfaced through a direct pathway to a hotel Property Management System via terminal emulation, said direct pathway excluding a Global Distribution System or a Central Reservation System;

providing three or more clone reservation sites to said primary reservation management system web server, each clone reservation site having a user interface tailored for use by a booking party type selected from a group consisting at least of a wholesale booking party, an agent booking party, and a direct customer party;

periodically synchronizing clone inventory databases of said clone reservation sites with an inventory database of said primary reservation management system web server;

responsive to a booking party attempting to book a reservation on said primary reservation management system web server, redirecting said booking party to one of said clone reservation sites according to a type of booking party associated with the attempting booking party;

via said customer-type tailored user interface on said clone reservation system, collecting from said booking party a reservation data set including itinerary and preferences for a customer;

establishing a reservation in said hotel Property Management System according to said reservation data set if a matching service or product is available according to a hotel Property Management System inventory database, said reservation being associated with a customer profile;

determining a revenue value or a discount value to be compensated to said booking party according to said customer-type; and

recording said revenue or discount in a revenue pool for said booking party.

2. (previously presented) The method as set forth in Claim 1 wherein said step of redirecting a booking party to a clone reservation system according to a booking party type comprises a redirecting from a primary Universal Resource Locator to a clone Universal Resource Locator.
3. (original) The method as set forth in Claim 1 further comprising a step of allowing said booking party to create a new customer profile.
4. (original) The method as set forth in Claim 1 further comprising the step of allowing said booking party to modify an existing customer profile.
5. (original) The method as set forth in Claim 1 where in said step of establishing and associating said reservation with a customer profile comprises a step selected from the group of establishing a hotel reservation, reserving a travel ticket, booking a rental car, reserving a golf tee time, reserving an entertainment ticket, and reserving products due for future availability.

Claims 6 - 18 (cancelled).

19. (previously presented) The method as set forth in Claim 1 wherein said redirection of said booking party comprises redirecting from a primary web address to a clone web address.
20. (previously presented) The method as set forth in Claim 1 wherein said redirection of said booking party comprises a redirecting from a primary domain to a clone subdomain.

Evidence Appendix
per 37 CFR §41.37(c)(1)(ix)

No evidence has been submitted by applicant or examiner pursuant to 37 CFR §§1.130, 1.131, or 1.132. For the convenience of the Board, Burko's provisional patent application is reproduced here.

Related Proceedings Appendix
per 37 CFR §41.37(c)(1)(x)

No decisions have been rendered by a court or the Board in the related proceedings as identified under 37 CFR §41.37(c)(1)(ii).